

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

CLARENCE W. BROOKS,)	
)	
Plaintiff,)	
v.)	NO. CIV-14-0283-HE
)	
GARFIELD COUNTY JAIL, <i>et. al.</i> ,)	
)	
Respondents.)	

ORDER

Plaintiff Clarence W. Brooks appearing *pro se* and *in forma pauperis*, brings this 42 U.S.C. § 1983 civil suit alleging various constitutional violations relating to his confinement at Garfield County Jail. Consistent with 28 U.S.C. § 636(b)(1)(B), the case was referred to Magistrate Judge Gary M. Purcell. Defendant Vanessa Gay filed a motion for summary judgment [Doc. #33]; the remaining defendants, Jerry Niles, Nancy Stanley, and Rhonda Bradley, filed a motion to dismiss or in the alternative for summary judgment, which incorporated defendant Gay's motion as it pertained to those defendants [Doc. #35].¹ Plaintiff did not respond to these motions, nor did he request more time to do so.

After reviewing these motions, Magistrate Judge Purcell recommended that summary judgment be entered in favor of all defendants. As to plaintiff's claims of excessive force and unconstitutional conditions of confinement, which are alleged against defendants Niles, Bradley, and Stanley, Judge Purcell found that plaintiff had not exhausted his administrative


¹ Plaintiff includes Garfield County Jail in the caption of his filings, but does not actually name it as a defendant in the body of those filings. Nor has plaintiff served it with a summons. Accordingly, it is not a proper defendant to this action.

remedies as required by the Prison Litigation Reform Act. As to plaintiff's claim that all defendants were deliberately indifferent to his medical needs, Judge Purcell found no evidence or genuine dispute of material fact suggesting that any defendant acted with the requisite mental state in treating plaintiff or denying requested treatment. Additionally, Judge Purcell recommended that, to the extent plaintiff asserts claims on behalf of other inmates—which he is not permitted to do—those claims be dismissed without prejudice.

By failing to object to the Report and Recommendation, plaintiff has waived his right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996); *see* 28 U.S.C. § 636(b)(1)(C). Accordingly, the court adopts Magistrate Judge Gary M. Purcell's Report and Recommendation, a copy of which is attached to this order, and thus **GRANTS** defendants' motions [Doc. Nos. 33 & 35]. Summary judgment will be entered in favor of all defendants as to plaintiff's claims against them. All claims alleged on behalf of other inmates are **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

Dated this 25th day of November, 2014.



JOE HEATON
UNITED STATES DISTRICT JUDGE